

**REMARKS**

The above Amendments and these Remarks are in reply to the Office Action mailed January 5, 2004.

**I. Status of Claims**

Claims 1-30 were pending in the Application prior to the outstanding Office Action, with claims 1, 9, 13, 17 and 24 being independent.

The present Response amends claim 24, leaving for the Examiner's present consideration claims 1-30. Reconsideration of the rejections is requested.

**II. 35 U.S.C. 101 Rejections****A. Claims 1-16**

Claims 1-16 were rejected under 35 U.S.C. 101 as allegedly being directed to non-statutory subject matter. More specifically, it was asserted in the Office Action that, for claims 1-16, the system and apparatus fails to include a positive recitation of any hardware components and are thus not tangible.

Applicants respectfully assert that it is clear from the specification that the claimed elements of claims 1-16 can be implemented in software, hardware or combinations thereof.

Further, the preamble of claims 1-8 states that the claimed elements are part of an "apparatus," the preamble of claims 9-12 states that the claimed elements are part of a "system," and that the preamble of claims 13-16 states that the claimed elements are part of a "system." Apparatuses and systems are clearly patentable subject matter. As just mentioned, it is clear from the

specification that the elements of the claimed apparatus and systems can be implemented in software, hardware or combinations thereof, all of which are patentable subject matter.

Applicants are unaware of any requirement that a claim must include a hardware component in order to be tangible. If the Examiner wishes to maintain the 35 U.S.C. 101 rejection of these claims, Applicants respectfully request the Examiner to provide a more detailed 35 U.S.C. 101 rejection which includes support for the rejection (e.g., case law, or an M.P.E.P. cite), and preferably a recommendation for overcoming the rejection.

B. Claims 24-30

Claims 24-30 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. More specifically, with regards to claim 24, it was asserted that the "information storage medium" is such a broad recitation that the software described is not necessarily computer readable and executable.

Claim 24 has been amended such that the preamble now reads "An article of manufacture including an information storage medium wherein is stored computer readable information comprising:" Applicants believe that this amendment overcomes the rejection, and respectfully request the 101 rejection of claims 24-30 be withdrawn.

### III. 35 U.S.C. 102(e) Rejections

Claims 1-30 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent No. 6,549,936 to Hirabayashi (hereafter referred to simply as "Hirabayashi").

#### A. Claims 1-8

Claim 1 includes "an assigning part which receives a first signal from at least one of the plurality of service providers, and in response to the first signal delegates the task to one of the plurality of service providers for performing the task."

In rejecting claim 1, it was asserting in the Office Action that column 6, lines 53-56 of Hirabayashi teaches the claimed "assigning part." However, column 6, lines 53-56 of Hirabayashi merely states "The server gateway 203 receives the request block 202 transferred from the respective clients and analyzes the request, then judging [sic] to which server the request should be transferred."

Applicants respectfully point out that the server gateway of Hirabayashi does not "receive a first signal from at least one of the plurality of service providers, and in response to the first signal delegate the task to one of the plurality of service providers for performing the task." That is, the gateway of Hirabayashi does not delegate a task in response to a first signal received from at least one of the plurality of service provides.

Rather, the gateway of Hirabayashi does not appear to take into account any signal received from service providers when deciding to which service provider it should delegate the task. More specifically, the gateway of Hirabayashi appears to transfer a request based solely on the gateway's own analysis of the request.

In the present invention, the claimed first signal can be, e.g., a request\_work signal that is

sent from one of the service providers to the assigning part (e.g., see page 8, lines 20-22 of the present application). This enables the claimed "assigning part" to immediately delegate tasks (e.g., queued in the queue 122) to the requesting service provider, reducing the likelihood of a backlog of work developing (e.g., see page 16, lines 2-4 of the present application). Additionally, if a service provider sends the request\_work signal only when that service provider is available to perform work, then efficiency can be increased (e.g., because tasks won't be assigned to bottlenecked service providers).

In summary, because the gateway of Hirabayashi does not delegate a task in response to a first signal received from at least one of the plurality of service provides, Applicants respectfully request that the 35 U.S.C. 102(e) of claim 1, and its dependent claims 2-8, be withdrawn.

**B. Claims 9-12**

Claim 9 includes "at least one provider manager in communication with the job management apparatus and in communication with the plurality of service providers which monitors the tasks being performed on the service providers and provides status information to the job management apparatus."

In rejecting claim 9, it was asserting in the Office Action that server element 920 in FIG. 9 of Hirabayashi teaches the claimed "provider manager." However, the server 920 of Hirabayashi does not monitor tasks being performed on a plurality of service provides, as required by claim 9. Additionally, the server 920 of Hirabayashi does not provide status information to a job management apparatus, as required by claim 9. If the Examiner still believes that the server 920 of Hirabayashi teaches these claimed features, Applicants respectfully request that the Examiner specifically point

out the text in Hirabayashi that discloses these claimed features.

In summary, for at least the reasons that the server 920 of Hirabayashi does not monitor tasks being performed on a plurality of service provides, and does not provide status information to a job management apparatus, Applicants respectfully request that the 35 U.S.C. 102(e) of claim 9, and its dependent claims 10-12, be withdrawn.

C. Claims 13-16

Claim 13 is directed to a system for executing a batch job including a plurality of tasks, with the system including an "assigning part configured to delegate one of the tasks to one of the first and second service providers responsive to receiving the first and second signals from the service providers." Applicants respectfully assert that claim 13, and its dependent claims 14-16, are patentable over Hirabayashi for at least the reasons discussed above with reference to claim 1.

D. Claims 17-23

Claim 17 is directed to a method for preparing and executing a batch job by a batch job execution system. The method includes the steps of "receiving a first signal from at least one of a plurality of service providers which informs the job management apparatus of the service providers ability to perform a task" and "delegating the task to the service providers in response to the first signal." Applicants respectfully assert that claim 17, and its dependent claims 18-23, are patentable over Hirabayashi for at least the reasons discussed above with reference to claim 1.

E. Claims 24-30

Claim 24, as amended, is directed to an article of manufacture including an information storage medium wherein is stored computer readable information. This comprises, among other components "an assigning software component which receives a first signal from at least one of a plurality of service providers, and in response to the first signal delegates a task to one of the plurality of service providers for performing the task." Applicants respectfully assert that claim 24, and its dependent claims 25-30, are patentable over Hirabayashi for at least the reasons discussed above with reference to claim 1.

**IV. Conclusion**

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 24-0037 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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